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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,432	01/30/2004	Frank A. Hunleth	0320-001	8731
43015 7590 12/10/2008 POTOMAC PATENT GROUP PLLC P. O. BOX 270 FREDERICKSBURG, VA 22404				
EXAMINER				
ORR, HENRY W				
ART UNIT		PAPER NUMBER		
2176				
NOTIFICATION DATE		DELIVERY MODE		
12/10/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

tammy@ppglaw.com

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/768,432

**Applicant(s)**

HUNLETH ET AL.

**Examiner**

Henry Orr

**Art Unit**

2176

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s): 11/10/2004  
13. ☐ Other: \_\_\_\_\_.

/Henry Orr/

/Rachna S Desai/  
Primary Examiner, Art Unit 2176

Continuation of 11, does NOT place the application in condition for allowance because: Applicant argues that Duarte does not teach or suggest changing a location of the image when transitioning from one semantic level to a second semantic level. (see Response; p. 3) Examiner respectfully disagrees.

In respect to Duarte's Figure 11, Examiner interprets the highlighted icon(e.g. ref. 101) and corresponding preview area (e.g. ref. 103) to represent a semantic level. When an icon within the loop is changed to a location within the highlighted region, the semantic level changes via a new highlighted icon displayed with corresponding preview area. In other words, each highlighted icon and corresponding preview area represent a semantic level when displayed together. Applicant admits that Duarte teaches icons within the loop are moving through the highlighted region (i.e., changing locations) (see Response p. 2 last full paragraph). Therefore, the icons change locations when transitioning from one semantic level (i.e., displaying icon and preview area) to a second semantic level (i.e., displaying the next icon and corresponding preview area). Thus, Duarte does teach or suggest changing a location of the image (e.g. icon) when transitioning from one semantic level to a second semantic level).

Applicant argues that claim language used by outstanding Office Action dated 8/14/2008 is not in the pending claims. In particular, claim 1, "at which one of said media items is displayed together with other media items of said media items." is language that has been cancelled and by comparing language that does not exist in the pending claims with the applied art renders the Action improper. Therefore, Applicant respectfully requests a new Office Action to correct this matter. (see Response; p. 4)

Examiner respectfully disagrees.

Although, cancelled limitations were included in the Outstanding Office Action; all current limitations for the pending claims were also included (see Action; p. 5) and the applied art relied upon still reads on the pending claims. Therefore, Outstanding Action relying on applied art is proper and request for new Office Action is denied.

Applicant argues that section of Twerdahl relied upon by outstanding Office Action is not prior art. (see Response; p. 5)

Examiner respectfully disagrees.

The provisional application of Twerdahl recites "The central object 218 may include text and/or graphics representative of a user operation; for example, in Fig.2 the central object 218 shows a menu in list form, representative of an operation of switching the first level menu 200 to a conventional list format." on page 2 first paragraph. Examiner interprets this general operation of switching to a conventional list format as an operation that may be adapted to be applied to the second level and not only the first level. In other words, Examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made in light of the provisional to have a same central object prevalent through multiple levels that would allow the option of switching to a conventional format. For example, such conventional list formatting may not be desired until a user reaches a higher level. Therefore, Examiner submits that there are sufficient teachings in the provisional to support "a second central object 318 can be the same as the first central object 218".

For at least the foregoing reasons, Examiner maintains Prior Art Rejections